IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CENTRAL EXCISE APPEAL NO.69 OF 2004

The Commissioner of Central Excise, Raigad .. Appellant.

V/s.

M/s.Reliance Ind. Ltd. .. Respondent.

Mr.R.V. Desai, senior counsel with Ms.S.V. Bharucha i/b. Dr.T.C. Kaushik for the appellant.

Mr.J.J. Bhatt i/b. A.S. Dayal & Associates for the respondent.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 17TH AUGUST, 2005.

P.C. :

Heard Mr.R.V. Desai, the learned senior counsel appearing for the revenue.

2. It is not in dispute that the two questions raised in this appeal; (1) whether the MODVAT credit allowed by the CESTAT under Rule 57A of the Central Excise Rules, 1944 for the products are eligible inputs in or in relation to the manufacture of final products ?; (2) whether the MODVAT credit allowed by the CESTAT under Rule 57A of the Central Excise Rules, 1944 for the products i.e. Anti Seize Agent, and Lubricating Oil, when these product are used in

machinery, which has been excluded under rule 57A ? were adjudicated upon by the Tribunal for earlier assessment years against the Revenue and the said adjudication was accepted by the department. In other words, aforesaid judgment of the tribunal in the case of the respondent company itself, taking similar view, reported in 118 E.L.T. 720 has been accepted by the Revenue. If that be so, in absence of any special reason, it is not open for the department to challenge the decision of the tribunal based on the earlier view accepted by the department. No special reason to deviate has been disclosed on record.

2. In the above view of the matter, no substantial question of law is involved. The appeal is dismissed in limine with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)